

REMARKS

Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the RCE submitted herewith and in view of the accompanying amendments and the discussion that follows. Claims 1-50 are pending in this application. Claims 1, 9, 13, 15, 17, 18, 26, 30, 32, 34, 35, and 45-47 have been amended herein for the purpose of clarification. Claims 1-50 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,557,658 to Gregorek et al. ("Gregorek"), in view of He (U.S. Pat. No. 5,642,407). After a careful review of the claims as amended, it is believed that the remaining claims are in allowable form and a Notice of Allowance is respectfully requested.

Claims 1-50 have been rejected as being obvious over Gregorek and He. Gregorek describes transmitting pre-recorded announcements during a telephone call in lieu of dial tone, ring back, or busy signals. Independent claims 1, 17, 18, 34, and 35 call for automatically configuring the information based upon a profile generated by monitoring the user's use of the device. This feature, as conceded by the Office Action, is not taught or suggested by Gregorek. However, the Office Action asserts that it is disclosed by He at Col. 1, lines 51-59; Col. 3, lines 26-56 and Col. 4, lines 46-Col. 8, line 12.

He describes a system for an audio response to the caller of an unsuccessful connection. He does not disclose configuring substitute information based on a profile of the user from monitoring the user's use of the device, rather it describes a process for deciding which calls should be selected as unsuccessful calls (Col. 1, lines 55-56; Col. 3, lines 30-31) and is based on information transmitted with the call (Col. 3, lines 49-50). Thus, it does not teach configuring substitute information, and does not use a user profile generated by monitoring the user's use of the communication device. Thus, the combination of Gregorek and He does not teach all of the claimed features of the independent claims. In addition, independent claims 1, 17, and 35 have been amended to call for downloading the information during an immediately preceding


communication (see e.g., para. 0023). Independent claim 18 has been amended to recite suppressing or substituting for a tone for notifying a user of a receiving device (see e.g., para. 0003-0004), and claim 34 has been amended to claim updating at predetermined time intervals (as well as dependent claims 9, 26, and 45, see e.g., para. 0021). These features are also not disclosed by Gregorek or He. Thus, the independent claims 1, 17, 18, 34 and 35 are believed to be distinguishable over Gregorek and He, and are therefore neither anticipated nor rendered obvious by the combination of Gregorek and He. In addition, the dependent claims 2-16, 19-33 and 36-50 are believed to be allowable because they depend from allowable base claims 1, 18, and 35.

Further, dependent claims 13, 30, and 46 have been amended to claim downloading from an outside source after the communication is established and subsequently substituting in future attempts to establish communications (see e.g., para. 0023 and 0025). Dependent claims 15, 32, and 47 have been amended to claim updating only upon connection of the devices (see e.g., para. 0025). Thus claims 13, 15, 30, 32, 46, and 47 have been believed to be further allowable over the references of record.

The Office Action has also rejected claim 4, 6-16, 21, 23-33, 38, and 40-50 as obvious to one skilled in the art as design preferences, based upon Gregorek. Applicant respectfully traverses this general rejection. These claims recite distinguishable features which are not merely design preferences and the Office Action does not identify any specific disclosure which teaches or suggests these features. Thus, applicant believes they are also in allowable form.

As discussed above, claims 1-50 are not anticipated or rendered obvious by the cited references. Therefore, allowance of all pending claims 1-50 is believed to be in order and such action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,

A handwritten signature in cursive script, reading "James A. Scheer", written over a horizontal line.

James A. Scheer

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